



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

SB2325

Introduced 2/26/2021, by Sen. Sara Feigenholtz

#### SYNOPSIS AS INTRODUCED:

305 ILCS 5/5-4.2

from Ch. 23, par. 5-4.2

Amends the Medical Assistance Article of the Illinois Public Aid Code. In a provision requiring the Department of Healthcare and Family Services to establish, by rule, a process by which a provider of ambulance services can appeal a denied request for payment of ambulance services (rather than payment of non-emergency transportation by means of ground ambulance service), provides that for all appeals concerning ambulance services provided on and after December 15, 2012, the provider shall establish the medical necessity of the transport utilizing the patient care report and any other materials available in accordance with specified criteria established under the Code. Provides that a Physician Certification Statement, Certificate of Transportation Services, or Medical Certification for Non-Emergency Ambulance form is not necessary to establish subject matter jurisdiction for appeal or medical necessity on appeal but may be considered if available. Provides that all Department rules, or parts thereof, in conflict with the provisions of the amendatory Act shall not apply. Provides that nothing in the amendatory Act shall be construed to affect any rights, actions, or causes of action that accrued prior to the effective date of the amendatory Act, except that the non-necessity of a Physician Certification Statement, Certificate of Transportation Services, or Medical Certification for Non-Emergency Ambulance form as provided in the amendatory Act shall be retroactively applied to the full extent permissible.

LRB102 16957 KTG 22374 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning public aid.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Public Aid Code is amended by  
5 changing Section 5-4.2 as follows:

6 (305 ILCS 5/5-4.2) (from Ch. 23, par. 5-4.2)

7 Sec. 5-4.2. Ambulance services payments.

8 (a) For ambulance services provided to a recipient of aid  
9 under this Article on or after January 1, 1993, the Illinois  
10 Department shall reimburse ambulance service providers at  
11 rates calculated in accordance with this Section. It is the  
12 intent of the General Assembly to provide adequate  
13 reimbursement for ambulance services so as to ensure adequate  
14 access to services for recipients of aid under this Article  
15 and to provide appropriate incentives to ambulance service  
16 providers to provide services in an efficient and  
17 cost-effective manner. Thus, it is the intent of the General  
18 Assembly that the Illinois Department implement a  
19 reimbursement system for ambulance services that, to the  
20 extent practicable and subject to the availability of funds  
21 appropriated by the General Assembly for this purpose, is  
22 consistent with the payment principles of Medicare. To ensure  
23 uniformity between the payment principles of Medicare and

1 Medicaid, the Illinois Department shall follow, to the extent  
2 necessary and practicable and subject to the availability of  
3 funds appropriated by the General Assembly for this purpose,  
4 the statutes, laws, regulations, policies, procedures,  
5 principles, definitions, guidelines, and manuals used to  
6 determine the amounts paid to ambulance service providers  
7 under Title XVIII of the Social Security Act (Medicare).

8 (b) For ambulance services provided to a recipient of aid  
9 under this Article on or after January 1, 1996, the Illinois  
10 Department shall reimburse ambulance service providers based  
11 upon the actual distance traveled if a natural disaster,  
12 weather conditions, road repairs, or traffic congestion  
13 necessitates the use of a route other than the most direct  
14 route.

15 (c) For purposes of this Section, "ambulance services"  
16 includes medical transportation services provided by means of  
17 an ambulance, medi-car, service car, or taxi.

18 (c-1) For purposes of this Section, "ground ambulance  
19 service" means medical transportation services that are  
20 described as ground ambulance services by the Centers for  
21 Medicare and Medicaid Services and provided in a vehicle that  
22 is licensed as an ambulance by the Illinois Department of  
23 Public Health pursuant to the Emergency Medical Services (EMS)  
24 Systems Act.

25 (c-2) For purposes of this Section, "ground ambulance  
26 service provider" means a vehicle service provider as

1 described in the Emergency Medical Services (EMS) Systems Act  
2 that operates licensed ambulances for the purpose of providing  
3 emergency ambulance services, or non-emergency ambulance  
4 services, or both. For purposes of this Section, this includes  
5 both ambulance providers and ambulance suppliers as described  
6 by the Centers for Medicare and Medicaid Services.

7 (c-3) For purposes of this Section, "medi-car" means  
8 transportation services provided to a patient who is confined  
9 to a wheelchair and requires the use of a hydraulic or electric  
10 lift or ramp and wheelchair lockdown when the patient's  
11 condition does not require medical observation, medical  
12 supervision, medical equipment, the administration of  
13 medications, or the administration of oxygen.

14 (c-4) For purposes of this Section, "service car" means  
15 transportation services provided to a patient by a passenger  
16 vehicle where that patient does not require the specialized  
17 modes described in subsection (c-1) or (c-3).

18 (d) This Section does not prohibit separate billing by  
19 ambulance service providers for oxygen furnished while  
20 providing advanced life support services.

21 (e) Beginning with services rendered on or after July 1,  
22 2008, all providers of non-emergency medi-car and service car  
23 transportation must certify that the driver and employee  
24 attendant, as applicable, have completed a safety program  
25 approved by the Department to protect both the patient and the  
26 driver, prior to transporting a patient. The provider must

1 maintain this certification in its records. The provider shall  
2 produce such documentation upon demand by the Department or  
3 its representative. Failure to produce documentation of such  
4 training shall result in recovery of any payments made by the  
5 Department for services rendered by a non-certified driver or  
6 employee attendant. Medi-car and service car providers must  
7 maintain legible documentation in their records of the driver  
8 and, as applicable, employee attendant that actually  
9 transported the patient. Providers must recertify all drivers  
10 and employee attendants every 3 years.

11 Notwithstanding the requirements above, any public  
12 transportation provider of medi-car and service car  
13 transportation that receives federal funding under 49 U.S.C.  
14 5307 and 5311 need not certify its drivers and employee  
15 attendants under this Section, since safety training is  
16 already federally mandated.

17 (f) With respect to any policy or program administered by  
18 the Department or its agent regarding approval of  
19 non-emergency medical transportation by ground ambulance  
20 service providers, including, but not limited to, the  
21 Non-Emergency Transportation Services Prior Approval Program  
22 (NETSPAP), the Department shall establish by rule a process by  
23 which ~~ground ambulance service~~ providers of ambulance  
24 services, as defined in subsection (c), non-emergency medical  
25 ~~transportation~~ may appeal any decision by the Department or  
26 its agent for which no denial was received prior to the time of

1 transport that either (i) denies a request for approval for  
2 payment of ambulance services ~~non-emergency transportation by~~  
3 ~~means of ground ambulance service~~ or (ii) grants a request for  
4 approval of ambulance services ~~non-emergency transportation~~ by  
5 means of ~~ground ambulance~~ service at a level of service that  
6 entitles the ~~ground ambulance service~~ provider to a lower  
7 level of compensation from the Department than the ~~ground~~  
8 ~~ambulance service~~ provider would have received as compensation  
9 for the level of service requested. For all appeals under this  
10 subsection concerning ambulance services provided on and after  
11 December 15, 2012, the provider shall establish the medical  
12 necessity of the transport utilizing the patient care report  
13 and any other materials available in accordance with the  
14 criteria established in subsection (f-5). A Physician  
15 Certification Statement, Certificate of Transportation  
16 Services, or Medical Certification for Non-Emergency Ambulance  
17 form is not necessary to establish subject matter jurisdiction  
18 for appeal or medical necessity on appeal but may be  
19 considered if available. All Department rules, or parts  
20 thereof, in conflict with the provisions of this subsection  
21 shall not apply. However, nothing in this amendatory Act of  
22 the 102nd General Assembly shall be construed to affect any  
23 rights, actions, or causes of action that existed or accrued  
24 prior to the effective date of this amendatory Act of the 102nd  
25 General Assembly, except that the non-necessity of a Physician  
26 Certification Statement, Certificate of Transportation

1 Services, or Medical Certification for Non-Emergency Ambulance  
2 form as provided in this subsection shall be retroactively  
3 applied to the full extent permissible. The rule shall be  
4 filed by December 15, 2012 and shall provide that, for any  
5 decision rendered by the Department or its agent on or after  
6 the date the rule takes effect, the ground ambulance service  
7 provider shall have 60 days from the date the decision is  
8 received to file an appeal. The rule established by the  
9 Department shall be, insofar as is practical, consistent with  
10 the Illinois Administrative Procedure Act. The Director's  
11 decision on an appeal under this Section shall be a final  
12 administrative decision subject to review under the  
13 Administrative Review Law.

14 (f-5) Beginning 90 days after July 20, 2012 (the effective  
15 date of Public Act 97-842), (i) no denial of a request for  
16 approval for payment of non-emergency transportation by means  
17 of ground ambulance service, and (ii) no approval of  
18 non-emergency transportation by means of ground ambulance  
19 service at a level of service that entitles the ground  
20 ambulance service provider to a lower level of compensation  
21 from the Department than would have been received at the level  
22 of service submitted by the ground ambulance service provider,  
23 may be issued by the Department or its agent unless the  
24 Department has submitted the criteria for determining the  
25 appropriateness of the transport for first notice publication  
26 in the Illinois Register pursuant to Section 5-40 of the

1 Illinois Administrative Procedure Act.

2 (g) Whenever a patient covered by a medical assistance  
3 program under this Code or by another medical program  
4 administered by the Department, including a patient covered  
5 under the State's Medicaid managed care program, is being  
6 transported from a facility and requires non-emergency  
7 transportation including ground ambulance, medi-car, or  
8 service car transportation, a Physician Certification  
9 Statement as described in this Section shall be required for  
10 each patient. Facilities shall develop procedures for a  
11 licensed medical professional to provide a written and signed  
12 Physician Certification Statement. The Physician Certification  
13 Statement shall specify the level of transportation services  
14 needed and complete a medical certification establishing the  
15 criteria for approval of non-emergency ambulance  
16 transportation, as published by the Department of Healthcare  
17 and Family Services, that is met by the patient. This  
18 certification shall be completed prior to ordering the  
19 transportation service and prior to patient discharge. The  
20 Physician Certification Statement is not required prior to  
21 transport if a delay in transport can be expected to  
22 negatively affect the patient outcome. If the ground ambulance  
23 provider, medi-car provider, or service car provider is unable  
24 to obtain the required Physician Certification Statement  
25 within 10 calendar days following the date of the service, the  
26 ground ambulance provider, medi-car provider, or service car

1 provider must document its attempt to obtain the requested  
2 certification and may then submit the claim for payment.  
3 Acceptable documentation includes a signed return receipt from  
4 the U.S. Postal Service, facsimile receipt, email receipt, or  
5 other similar service that evidences that the ground ambulance  
6 provider, medi-car provider, or service car provider attempted  
7 to obtain the required Physician Certification Statement.

8 The medical certification specifying the level and type of  
9 non-emergency transportation needed shall be in the form of  
10 the Physician Certification Statement on a standardized form  
11 prescribed by the Department of Healthcare and Family  
12 Services. Within 75 days after July 27, 2018 (the effective  
13 date of Public Act 100-646), the Department of Healthcare and  
14 Family Services shall develop a standardized form of the  
15 Physician Certification Statement specifying the level and  
16 type of transportation services needed in consultation with  
17 the Department of Public Health, Medicaid managed care  
18 organizations, a statewide association representing ambulance  
19 providers, a statewide association representing hospitals, 3  
20 statewide associations representing nursing homes, and other  
21 stakeholders. The Physician Certification Statement shall  
22 include, but is not limited to, the criteria necessary to  
23 demonstrate medical necessity for the level of transport  
24 needed as required by (i) the Department of Healthcare and  
25 Family Services and (ii) the federal Centers for Medicare and  
26 Medicaid Services as outlined in the Centers for Medicare and

1 Medicaid Services' Medicare Benefit Policy Manual, Pub.  
2 100-02, Chap. 10, Sec. 10.2.1, et seq. The use of the Physician  
3 Certification Statement shall satisfy the obligations of  
4 hospitals under Section 6.22 of the Hospital Licensing Act and  
5 nursing homes under Section 2-217 of the Nursing Home Care  
6 Act. Implementation and acceptance of the Physician  
7 Certification Statement shall take place no later than 90 days  
8 after the issuance of the Physician Certification Statement by  
9 the Department of Healthcare and Family Services.

10 Pursuant to subsection (E) of Section 12-4.25 of this  
11 Code, the Department is entitled to recover overpayments paid  
12 to a provider or vendor, including, but not limited to, from  
13 the discharging physician, the discharging facility, and the  
14 ground ambulance service provider, in instances where a  
15 non-emergency ground ambulance service is rendered as the  
16 result of improper or false certification.

17 Beginning October 1, 2018, the Department of Healthcare  
18 and Family Services shall collect data from Medicaid managed  
19 care organizations and transportation brokers, including the  
20 Department's NETSPAP broker, regarding denials and appeals  
21 related to the missing or incomplete Physician Certification  
22 Statement forms and overall compliance with this subsection.  
23 The Department of Healthcare and Family Services shall publish  
24 quarterly results on its website within 15 days following the  
25 end of each quarter.

26 (h) On and after July 1, 2012, the Department shall reduce

1 any rate of reimbursement for services or other payments or  
2 alter any methodologies authorized by this Code to reduce any  
3 rate of reimbursement for services or other payments in  
4 accordance with Section 5-5e.

5 (i) On and after July 1, 2018, the Department shall  
6 increase the base rate of reimbursement for both base charges  
7 and mileage charges for ground ambulance service providers for  
8 medical transportation services provided by means of a ground  
9 ambulance to a level not lower than 112% of the base rate in  
10 effect as of June 30, 2018.

11 (Source: P.A. 100-587, eff. 6-4-18; 100-646, eff. 7-27-18;  
12 101-81, eff. 7-12-19; 101-649, eff. 7-7-20.)